

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 239B.4(6), the Department of Human Services proposes to amend Chapter 41, “Granting Assistance,” Chapter 46, “Overpayment Recovery,” and Chapter 60, “Refugee Cash Assistance,” Iowa Administrative Code.

These amendments limit the types of businesses at which the electronic access card (EAC) can be used. Recipient households will not be allowed to use their EACs to access benefits at any of the following prohibited locations: a liquor store, a casino, a gambling casino, a gaming establishment, or a retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment. A recipient that is proved to have used the recipient’s EAC card at one of the above locations is considered to have committed a fraudulent act, must repay the amount accessed at the location, and is subject to a household ineligibility period.

These amendments also remove an obsolete reference to intentional program violations.

Any interested person may make written comments on the proposed amendments on or before September 24, 2013. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 239B.4(6).

The following amendments are proposed.

ITEM 1. Adopt the following **new** subrule 41.25(11):

41.25(11) Access to benefits.

a. A recipient shall not use the recipient’s electronic access card issued pursuant to 441—subrule 45.21(1) to access benefits at any of the following prohibited locations as defined by federal statute or regulation applicable to this prohibition:

- (1) A liquor store,
- (2) A casino, gambling casino or gaming establishment, or
- (3) A retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.

b. When the department receives a detailed complaint or suspects that a recipient has used the recipient’s electronic access card at a prohibited location, the case shall be referred to the department of inspections and appeals for further investigation.

c. When the department of inspections and appeals finds that a recipient has used the recipient’s electronic access card at a prohibited location, the household that includes the recipient is:

- (1) Considered to have committed a fraudulent act;
- (2) Liable for any amounts accessed at a prohibited location and required to repay such amount in accordance with 441—Chapter 46;
- (3) Ineligible for FIP for a three-month period after the first report by the department of inspections and appeals which includes a finding of misuse;

(4) Ineligible for FIP for a six-month period after each subsequent report by the department of inspections and appeals which includes a finding of misuse.

When the parents from a two-parent family separate during an ineligibility period, the ineligibility period applies to both the household of the parent that remains in the home and any household entered by the parent who left the home.

ITEM 2. Amend rule **441—46.21(239B)**, definitions of “Client error” and “Overpayment,” as follows:

“*Client error*” means and may result from:

1. False or misleading statements, oral or written, regarding the client’s income, resources, or other circumstances which may affect eligibility or the amount of assistance received;

2. Failure to timely report changes in income, resources, or other circumstances as required by rule 441—40.27(239B); ~~or~~

3. Failure to refund to the child support recovery unit any nonexempt payment from the absent parent received after the date the decision on eligibility was made; or

4. Access of benefits issued via the electronic access card at a prohibited location pursuant to 441—subrule 41.25(11).

“*Overpayment*” means any assistance payment received in an amount greater than the amount the eligible group is entitled to receive or the amount of any payment accessed at a prohibited location pursuant to 441—subrule 41.25(11).

ITEM 3. Amend subrule 46.24(3) as follows:

46.24(3) *Client error*:

a. An overpayment due to client error shall be computed as if the information had been reported and acted upon timely.

b. Overpayments due to failure to refund payments received from the absent parent shall be the total nonexempt support payment made for members of the eligible group at the time the support payment was received. In addition, assistance payments made to meet the needs of the eligible group may also be subject to recoupment under provisions in 441—subrule 41.22(6).

c. An overpayment due to a recipient’s accessing benefits via the electronic access card at a prohibited location shall be the total of the transactions at prohibited locations pursuant to 441—subrule 41.25(11).

ITEM 4. Adopt the following **new** subrule 60.10(4):

60.10(4) Restrictions found in 441—subrule 41.25(11) apply to benefits issued under this chapter.

ITEM 5. Amend rule 441—60.16(217) as follows:

441—60.16(217) Overpayment recovery. Recovery of overpayments ~~and intentional program violation~~ shall be determined as defined in 441—Chapter 46, Division II, except that refugee cash assistance shall be substituted for the family investment program whenever it appears.